

BOOK REVIEWS / BUCHBESPRECHUNGEN

Gabriela CB Navarro, Effectiveness of the Inter-American Court of Human Rights: The Case of Indigenous Territorial Rights, Hart Publishing, Oxford 2025, 264 pages, £90.00, ISBN: 9781509979066

Over the past two decades, the Inter-American Court of Human Rights (IACtHR) has developed the most advanced case law on indigenous territorial rights in international human rights law, expanding the entitlement to collective property, recognizing implicit rights such as cultural identity and self-determination, and ordering a wide range of forward-looking remedies. Yet the question of whether this jurisprudential ambition translates into meaningful change on the ground remains contested. Existing scholarship has progressively moved beyond compliance as the sole proxy for effectiveness, advancing several conceptual frameworks that range from goal-based assessments to analyses of domestic embeddedness and transformative constitutionalism.¹ These frameworks, however, have rarely been operationalised together in a single sustained study. Navarro's book takes on this challenge, applying a multidimensional effectiveness framework drawn from Helfer's four-dimensional classification (norm-development, case-specific compliance, embeddedness, and *erga omnes* effectiveness) to the IACtHR's indigenous territorial rights jurisprudence up to the early 2020s, analysing the first three of these dimensions.²

The book is organised in an introduction, six chapters and a conclusion, structured along three dimensions of effectiveness, each analysed through a distinct and appropriately calibrated methodological approach. Chapters one and two assess norm-development through a doctrinal analysis of the first fourteen indigenous-territorial cases, examining both the recognition of rights and the design of reparation measures against three criteria: coherence among cases and among rights, consistent quality of reasoning, and the potential of the developed norms to promote the self-determination of indigenous peoples. Chapter three addresses case-specific effectiveness through an original quantitative dataset on compliance rates, complemented by a qualitative description of domestic implementation processes. Chapters four through six shift to case studies of Nicaragua, Paraguay, and Brazil to assess embeddedness, drawing on primary sources including legislation, judicial decisions, reports from international organisations, and civil society documentation. The methodological variation across the book is itself a notable contribution, demonstrating that different dimensions of effectiveness demand different analytical tools.

1 *Laurence Helfer*, *The Effectiveness of International Adjudicators*, in: Cesare Romano / Karen Alter / Yuval Shany (eds.), *The Oxford Handbook of International Adjudication*, Oxford 2014, p. 464; *Yuval Shany*, *Assessing the Effectiveness of International Courts: A Goal-Based Approach*, *American Journal of International Law* 106 (2012), p. 225; *Par Engstrom*, *The Inter-American Human Rights System: Impact Beyond Compliance*, Cham 2018.

2 *Helfer*, note 1.

Navarro's central argument is that the effectiveness of the IACtHR in indigenous territorial rights is multidimensional, variable over time and across domestic contexts, and irreducible to a single binary assessment of effectiveness/ineffectiveness. The book demonstrates convincingly that the Court has been highly effective in norm-development, constructing an advanced framework that expanded collective property rights, recognised cultural identity as a cross-cutting interpretive principle, and built a culturally sensitive reparation system centred on non-monetary remedies and the principles of victim centrality and integral reparation. Compliance, by contrast, is shown to be low, particularly for restitution and accountability measures. Yet the book's most valuable insight is that embeddedness effects have occurred even where compliance remains partial. The author highlights the strengthening of civil society networks, the domestic adoption of international parameters in legislation and judicial reasoning, and the institutional empowerment of human rights bodies as an indication of these successes. The finding that effectiveness contracts as well as expands over time, powerfully illustrated by Nicaragua's trajectory from full compliance with *Awes Tingni* to eventual denunciation of the American Convention, is a compelling empirical contribution that invites reflection on the role of time in effectiveness assessments.

Navarro advances a normative proposal that constitutes a specific contribution on indigenous peoples' rights: an interconnected interpretive model linking self-determination, cultural identity, and territory as an inseparable ensemble of rights that should guide the Court's future jurisprudence towards increasing its effectiveness. This model responds to the Court's overreliance on the right to property under Article 21 of the American Convention and on procedural safeguards, at the expense of substantive protections and the near-absence of self-determination as a guiding interpretive principle. Navarro argues that this has concrete consequences: the preference for consultation over consent, the lenient treatment of restrictions on territorial rights, and what she describes as paternalistic compensation mechanisms that undermine indigenous agency. The evolution of *saneamiento* (the duty to remove encroachments from communal property) in the Court's jurisprudence is particularly instructive as evidence of a Court that refines its remedial orders in response to implementation failures. In *Awes Tingni* the Court failed to issue orders of *saneamiento* that allowed a declaration of full compliance without ensuring adequate protection to indigenous property, a limitation that was addressed in the Court's subsequent case law.

Additionally, the book's embeddedness analysis, while empirically rich, opens productive avenues for future research, particularly regarding the variables that mediate the translation of international jurisprudence into domestic legal change. One such avenue concerns state engagement with the Inter-American system as a variable shaping embeddedness: Nicaragua's subsequent complete disengagement, evidenced by the denunciation and non-participation in *Pueblos Rama y Kriol v Nicaragua* (2024),³ suggests that the dura-

3 *Rama and Kriol Peoples, the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua*, Merits, Reparations and Costs, IACtHR Series C No. 522 (1 April 2024).

bility of embeddedness effects may depend on conditions that Navarro's selection criteria (representativeness, temporal variation, and compliance rates) do not fully capture. Future comparative work could fruitfully explore how shifts in political regime and institutional commitment interact with the patterns the book identifies. A further avenue opened by the book concerns the horizon of expectations for international litigation itself: Navarro's acknowledgment that guarantees of non-repetition can mobilise institutions but cannot overcome the structural conditions of discrimination and colonisation invites deeper inquiry into which dimensions of effectiveness are realistic aspirations for an international court, and which require complementary mechanisms beyond strategic litigation. This is a key finding as the IACtHR's more recent remedial case law has grown in ambition to address systemic issues, including poverty⁴ and democracy.⁵

The book's originality lies in the comprehensiveness of its approach. Navarro is one of the first to operationalise these dimensions together and demonstrate their interconnection in a single theme of case law. The finding that compliance processes generate embeddedness effects, and that all three dimensions are mediated by domestic political context, constitutes a lasting contribution. The interconnected interpretive model she proposes offers a normative horizon for future jurisprudence, applicable to judgments issued after the book was published. Namely, in *Pueblo Indígena U'wa v Colombia* (2024),⁶ the Court declared violations of self-determination, cultural participation, and the right to a healthy environment as autonomous rights under Article 26 of the Convention, ordered integral *saneamiento*, and required participation processes for extractive projects. This judgment combines most of the substantive and procedural elements Navarro advocates, offering the most direct opportunity to assess whether her interconnected model translates into improved effectiveness at the norm development, compliance and embeddedness levels.

In conclusion, Navarro's book fills a significant gap in the literature by bridging Helfer's theoretical framework with sustained empirical analysis of indigenous territorial case law. Its case-by-case operationalisation tests this framework against evidence, providing insights of the opportunities and challenges that strategic litigation provides to advance indigenous peoples' rights. The book is relevant reading for scholars of international courts and researchers working at the intersection of indigenous rights, socio-economic rights, and comparative constitutional law. It also provides valuable insights for practitioners engaged in strategic litigation before the IACtHR. Its analytical framework for assessing what makes the IACtHR effective is transferable beyond indigenous territorial rights and the

4 *Employees of the Fireworks Factory of Santo Antônio de Jesus and their families v Brazil*, Preliminary Objections, Merits, Reparations and Costs, IACtHR Series C No 407 (15 July 2020).

5 *Gadea Mantilla v Nicaragua*, Merits, Reparations and Costs, IACtHR Series C No 543 (16 October 2024).

6 *Pueblo Indígena U'wa y sus miembros v Colombia*, Merits, Reparations and Costs, IACtHR Series C No 530 (4 July 2024).

Inter-American system, contributing methodological insights for effectiveness assessments of other international courts and themes.

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